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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY-DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/010,620      | 12/06/2001  | Jeffrey David Shelley | KCC-15,814          | 6625             |

35844 7590 04/29/2003

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EXAMINER

COLE, ELIZABETH M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1771

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/010,620

Applicant(s)

SHELLEY ET AL.

Examiner

Elizabeth M Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,6. 6) ☐ Other: \_\_\_\_

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al, U.S. patent No. 5,707,468.

Arnold teaches serially depositing nonwoven web onto a belt wherein the layers are subjected to a hot air knife before an additional layer is added. See col. 7, lines 1-24

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold et al, U.S. Patent NO. 5,707,468 in view of Kane et al, U.S. Patent No. 4,359,445. Arnold et al discloses a method of making a nonwoven fabric comprising depositing a nonwoven layer on a belt, subjecting it to a hot air knife in order to impart sufficient structural integrity to the layer to allow it to be processed. And depositing additional nonwoven layers on to the first nonwoven fabric. The layers of the nonwoven fabric may also be subjected to more substantial bonding such as hydroentanglement, needling, ultrasonic bonding, through air bonding, adhesive bonding and thermal point bonding or calendering. See col. 4, lines 58-65. Arnold et al differs from the

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claimed invention because Arnold does not teach that some of the layers should comprise crimped homopolymeric continuous fibers. Kane et al teaches that particularly lofty nonwoven fabrics may be formed by extruding crimpable homopolymeric continuous fibers and then heat treating the fibers to crimp them. See col. 1, lines 35-59; col 2, lines 4-14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the fabric of Arnold et al so that it comprised layers that comprised the crimped homopolymeric fibers of Kane et al. One of ordinary skill in the art would have been motivated to employ the fibers of Kane et al because Kane et al teaches that these fibers produce a particularly lofty web and Arnold et al is particularly concerned with forming a lofty, non-compressed web. With regard to the processing temperatures and line speeds, Arnold teaches that the hot air knife operates at a temperature of 220-550 F while Kane teaches col. 6, lines 43-50, that the velocity of the air during the crimping process may be at 200 feet per minute. With regard to the limitation that the crimped fibers are helical, either the fibers of Kane would inherently be helical due to their crimping, or else it would have been obvious to have selected the particular asymmetric shape of the extruded fibers so that it would produce the desired degree of crimping and shape of the crimped fiber since Kane recognizes that the crimping of the fibers is due to the fibers having an asymmetric cross section. See col. 2, lines 23-27 and col. 6, lines 51-65.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 5:00 PM Monday through Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.


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Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for official faxes is (703) 872-9310. The fax number for official after final faxes is (703) 872-9311. The fax number for unofficial faxes is (703) 305-5436.

  
Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c

April 23, 2003